

GRAND JURY OF KERRY (CASE RESERVED BY
CHIEF BARON PALLES).

RETURN to an Order of the Honourable The House of Commons,
dated 16 July 1889 *per*,

COPIES " of the CASE reserved by Chief Baron PALLES as to the duty of the
GRAND JURY for the County of *Kerry*, assembled at the Summer Assizes,
1885, in relation to an Application to them to present the sum of 3,192 l. 11 s. 4 d.
under 43 & 44 Vict. c. 14, and 44 Vict. c. 33, together with the Schedules
and Appendices attached thereto, and the Decision of the Court of Queen's
Bench thereon :

" And, of the INSTRUCTIONS issued by the Lord Lieutenant to the Asso-
ciated Cesspayers of the Baronies of Traghenaemey, Magunihy, Clannaurice,
Corkaguiny, and Inaghkconner in the Autumn of 1881, under the provisions
of the Relief of Distress (Ireland) Amendment Act, regarding the Proposed
Guarantee for the Fenit Pier and Harbour."

Dublin Castle, }
22 July 1889. }

WEST RIDGEWAY.

(*Mr. Mahony.*)

Ordered, by The House of Commons, to be Printed,
24 July 1889.

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COPIES of the CASE reserved by Chief Baron PALLES as to the duty of the GRAND JURY for the County of Kerry, assembled at the Summer Assizes, 1885, in relation to an Application to them to present the sum of 3,192 *l.* 11 *s.* 4 *d.* under 43 & 44 Vict. c. 14, and 44 Vict. c. 33, together with the Schedules and Appendices attached thereto, and the Decision of the Court of Queen's Bench thereon:—And, of the INSTRUCTIONS issued by the Lord Lieutenant to the Associated Cesspayers of the Baronies of Traghenscany, Magunihy, Clannaurice, Corkagunry, and Traghicconor in the Autumn of 1881, under the provisions of the Relief of Distress (Ireland) Amendment Act, regarding the Proposed Guarantee for the Fenit Pier and Harbour.

CASE FOR THE JUDGES—PRESENTMENT CASE.—HILARY SITTINGS, 1886.

County of Kerry Presentments.—Summer Assizes, 1885.

Tralee and Fenit Pier and Harbour.

RESERVED by the Lord Chief Baron as to the duty of the Grand Jury for the county of Kerry, assembled at the Summer Assizes, 1885, in relation to an application to them to present the sum of 3,192 *l.* 11 *s.* 4 *d.*, to be levied to certain proportions off certain baronies in said county under the 43rd & 44th Vict. c. 14, and 44 Vict. c. 33.

At the last assizes for the county of Kerry an application was made to me on behalf of the Commissioners of Public Works in Ireland, hereinafter called "The Board of Works," for a direction to the Grand Jury to present a sum of 3,192 *l.* 11 *s.* 4 *d.* (being the amount mentioned in a Certificate dated the 19th June 1885) to be levied off the several baronies, and in the proportions in the Schedule to said Certificate mentioned. A copy of the Certificate is contained in Appendix A.

2. This sum of 3,192 *l.* 11 *s.* 4 *d.* consisted of certain gales of annual sums which became payable (in manner hereinafter mentioned) in respect of certain advances made by the said Board of Works to "The Tralee and Fenit Pier and Harbour Commissioners." The earliest of such gales accrued due on the 1st May 1883, and the latest on the 1st May 1885; the particulars of them are set out in the First Schedule to this case.

3. "The Tralee and Fenit Pier and Harbour Commissioners," hereinafter called "The Harbour Commissioners," were incorporated by the "Piers and Harbour Order Confirmation Act, 1880" (43 & 44 Vict. c. 85, local and personal), which confirmed the Tralee and Fenit Pier and Harbour Provisional Order. By said Statute said Commissioners were empowered, amongst other things, to construct and maintain a Pier and Harbour at Fenit, in said county of Kerry. The said Provisional Order and Statute are to be deemed to form part of this case.

4. The said Harbour Commissioners applied to the Board of Works to make to them, under the "Relief of Distress (Ireland) Amendment Act, 1880" (43 & 44 Vict. c. 14), as amended by the "Irish Loans Act, 1880," a loan of 95,000 *l.* for the purpose of their said undertaking, which the latter agreed to do so having the repayment thereof, with interest at the rate of 4 *l.* per cent.

per

per annum, by 40 annual instalments secured to them by mortgage of the lands and works of the former, and the guarantee of the baronies of Trughenacmy, Maguniby, Clannaurice, Corkaguiny, and Inaghicconnor, in said county, respectively, to be given by said baronies in pursuance of said Statute.

5. In order to carry out said arrangement his Excellency the Lord Lieutenant, in exercise of the powers conferred upon him by the 14th Section of said first mentioned Statute, 43 & 44 Vict. c. 14, duly convened Extraordinary Presentment Sessions for each of the aforesaid baronies, and issued to them certain instructions (to which I refer, and are to be deemed to form part of this case) Whereupon the Justices and Associated Co-sponsors assembled at said Sessions respectively on behalf of each of the five baronies of Trughenacmy, Maguniby, Clannaurice, Corkaguiny, and Inaghicconnor, passed presentments guaranteeing repayment of a rateable proportion of said sum, or for so much thereof as should be advanced, with interest at 4 l. per cent. on the amount advanced, payable by annual instalments in 40 years, said instalments to cover principal and interest, and to be made payable yearly, half-yearly, or otherwise, as should be arranged between the Commissioners of Public Works and the Harbour Commissioners, and charging the said baronies respectively with the payment of such annual, half-yearly, or other sums in any year as the Commissioners of Public Works might certify to be payable on account of such guarantee. No question arose as to the legality of the presentments, and they are to be taken as having been duly made, and to be incorporated with this case. They are all in the same terms. One of them (that for the barony of Trughenacmy) is printed in the Appendix B.

6. By deed of mortgage, dated 6th January 1882, made between the said Harbour Commissioners and the Board of Works, it was amongst other things provided that the said sum of 95,000 l., or such portion or portions thereof as might be advanced, together with interest at 4 l. per cent. per annum, should be repaid by an annual re-charge of 5 l. 1 s. for every 100 l. of such loan which might be so advanced, and so in proportion for any lesser sum for the term of 40 years from the day of the date of each advance, such annuity to be payable by equal half-yearly payments, without any deduction, on every 1st day of May and 1st day of November, with such apportionment as might be necessary in respect of the first and last of such payments respectively, the first of such half-yearly payments. This mortgage is to be deemed to form part of this case. It is printed in Appendix C.

7. The said Board of Works advanced to the said Harbour Commissioners the several sums mentioned in the second schedule hereto on the dates therein respectively set forth, and in respect of these advances the several sums sought to be recovered by the presentment applied for became due and payable by the Harbour Commissioners, and were from time to time paid by said Harbour Commissioners to, and received by the Board of Works, and up to and at the time of the application to me such sums remained in the hands of said Board of Works. The receipts of the Board for these sums are printed in the Appendix D. These payments were made to the Board of Works out of the capital sums lent from time to time by them to the Harbour Commissioners, but until the 13th of March 1885 the Board of Works were ignorant of this fact. The Grand Jury were not, nor were any of its officers, aware of the fact that these payments had been made out of the moneys advanced as aforesaid. The Board of Works, after they had been thus paid these instalments of public works, made their certificate, dated 19th June 1885, and thereby certified that the instalments for the period ended 30th April 1885, in repayment of the said advance, amounted to 3,192 l. 11 s. 4 d., and that the same were properly chargeable upon the several baronies stated in the schedule thereto (set forth in Appendix A). This Certificate was forwarded to the Secretary of the Grand Jury of the county of Kerry, and by him laid before them when assembled at the Summer Assizes, 1885, in manner prescribed by the 43 & 44 Vict. cap. 14, sect. 15.

I decline to give such a direction. It appeared to me that as the baronies were but sureties for the Harbour Commissioners the payments by the principal debtors (unless they should be treated as never having been made) discharged the sureties. That the Board of Works (at least whilst they retained the sums so paid) could not as against the sureties allege that they were not paid in fact,

and the more so as at the time of payment of all the sums except the last (*viz.*, 1,055 *l.* 14 *s.* 6 *d.*, paid on the 27th May 1885), the Board had no notice of the source from which the sums paid came, and could therefore have successfully defended an action to recover them back.

As regards the last sum I thought that although they took it with notice of circumstances which showed that its payment was a breach of trust, its receipt by them disabled them, so long as they retained it, from suing the principal.

Notwithstanding these circumstances, however, I should have given the direction sought if it were clear that the Board of Works had jurisdiction to give the certificate, and that it was right in form, as in that state of facts such certificate would have been conclusive that the sum mentioned in it was chargeable against the baronies.

But taking the view of the merits which I did, I felt that I ought not to conclusively determine against the baronies that they were bound to pay the sum of 3,192 *l.* 11 *s.* 4 *d.* (which in fact was not due by them), if any serious question arose as to their liability, and I thought that there was a serious question whether it did not appear on the face of the certificate that the Board of Works had in making it exceeded their jurisdiction.

The 15th section of the 43 & 44 Vict. c. 14, enacts that "the Commissioners shall from time to time for the purpose of enforcing any presentment . . . make out before each assizes a certificate specifying the amount then properly chargeable upon the barony . . . Subsequent portions of the section show that the words "chargeable upon" mean "payable by." It appeared to me that the Act guarded against the sums due by the baronies being accumulated from one assizes to another, and that whilst there was an obligation on the Board of Works to certify, and on the Grand Jury to present before each assizes the whole sum then payable, so was there an absence of jurisdiction in the Board of Works to certify, or in the Grand Jury to present at any subsequent assizes for any sum that ought to have been certified at a previous one.

No question arose as to the admissibility of parol evidence to show this excess of jurisdiction, because the amount borrowed, 49,000 *l.*, appeared on the certificate, and the fact that the payments were to be made half-yearly, and to continue for 40 years, and be such as would in that period repay the principal and interest at 4 per cent., showed arithmetically that the sum presented for could not have become payable since the then last assizes.

I also thought it was possible to contend that the certificate was wrong in form.

I therefore reserved, for the opinion of the Judges, the following questions:—

1. Was the certificate of the 19th day of June 1885 conclusive that the sum of 3,192 *l.* 11 *s.* 4 *d.* was properly chargeable upon and payable by said baronies in the proportions in said certificate mentioned?

2. And, if so, were the Grand Jury bound to present therefor?

(signed) C. Pallet.

[Received in Crown Office, Queen's Bench Division, 18th January 1886.]

FIRST SCHEDULE.

Referred to in foregoing Case, showing how the Sum mentioned in the Certificate was made up.

		£. s. d.	£. s. d.
1 May 1883	Full half-year's annuity on 10,000 £ - - Part half-year's annuity on 2,000 £, from 10th March 1883 to 20th April 1883 -	252 10 - 16 1 10	
1 Nov. 1883	Full half-year's annuity on 10,000 £ - - Part half-year's annuity on 4,000 £, from 11th July 1883 to 31st October 1883 - Part half-year's annuity on 2,000 £, from 20th August 1883 to 31st October 1883 - Part half-year's annuity on 2,000 £, from 20th October 1883 to 31st October 1883 -	278 6 - 82 9 8	271 11 10
1 May 1884	Full half-year's annuity on 21,000 £ - - Part half-year's annuity on 2,000 £, 2,000 £, and 4,000 £ from 19th December 1883, 7th March 1884, and 10th April 1884, respectively, to 30th April 1884 -	520 5 - 85 17 1	410 14 8
1 Nov. 1884	Full half-year's annuity on 20,000 £ - - Part half-year's annuity on 4,000 £, 4,000 £, and 4,000 £ from 6th June, 10th August, and 20th October 1884, respectively, to 31st October 1884 -	722 5 - 128 2 8	850 2 1
1 May 1885	Full half-year's annuity on 41,000 £ - - Part half-year's annuity on 4,000 £, from 22nd March 1885 to 20th April 1885 -	1,023 5 - 20 9 6	868 8 8
			1,465 14 8
		£.	5,102 11 4

SECOND SCHEDULE.

Showing Sums advanced by the Board of Works to the Harbour Commissioners.

ADVANCES.

DATE.	Amounts.
	£.
1 February 1883 - - - - -	10,000
16 March 1883 - - - - -	2,000
11 July " - - - - -	4,000
20 August " - - - - -	2,000
26 October " - - - - -	2,000
12 December " - - - - -	2,000
7 March 1884 - - - - -	2,000
10 April " - - - - -	4,000
8 June " - - - - -	4,000
20 August " - - - - -	4,000
25 October " - - - - -	4,000
28 March 1885 - - - - -	4,000
19 May 1885 - - - - -	4,000
£.	42,000

APPENDIX A.

The Relief of Distress (Ireland) Amendment Act, 1880, and the Irish Loans Act, 1880, 43 & 44 Vict. c. 14, s. 15, and c. 44, s. 3.

Certificate.

WHEREAS the Commissioners of Public Works in Ireland, with the consent of the Lords Commissioners of Her Majesty's Treasury, have, pursuant to the provisions of said Acts, advanced to the Tralee and Fenit Pier and Harbour Commissioners various sums amounting together to 49,000 *l.*, the repayment whereof with interest has been, pursuant to said Acts, guaranteed by the several baronies mentioned in the Schedule hereto.

Now, We, the Commissioners of Public Works in Ireland, pursuant to the provisions of "The Relief of Distress (Ireland) Amendment Act, 1880," and "The Irish Loans Act, 1880," do hereby certify that the instalments for the period ended 30th April 1885, in repayment of the said advance with interest at 4 *l.* per cent. per annum, amounts to the sum of 3,192 *l.* 11 *s.* 4 *d.*, and that the same is properly chargeable upon the several baronies in the county of Kerry stated in the Schedule hereto annexed, in the proportionate amounts set opposite their respective names, and that the said instalments are to be presented for us our favour by the grand jury of the said county, at the ensuing summer assizes, in the proportionate amounts aforesaid.

(signed) G. Pirrie, Accountant.

Dated this 19th day of June 1885, at the Office of Public Works, Dublin.

(signed) R. H. Stoney, } Commissioners of Public
W R Le Fanu, } Works in Ireland.

Schedule referred to.

B A R O N I E S.						Proportionate Amount of Instalment (including Interest) due by each Barony on the 1st May 1885.
						£. s. d.
Clanmaurice	-	-	-	-	-	539 2 6
Corkaguiny	-	-	-	-	-	338 17 3
Traghtinacooner	-	-	-	-	-	475 - 8
Magaurthy	-	-	-	-	-	743 18 4
Trughenaomy	-	-	-	-	-	1,097 12 7
£.						3,192 11 4

APPENDIX B.

Form of Presentment.

We, the justices and associated cesspayers, assembled at Extraordinary Presentment Sessions for the Barony of Corkaguiny, in the county of Kerry, hereby present—

That we hereby, on behalf of the said Barony of Corkaguiny, guarantee the repayment by the Tralee and Fenit Pier and Harbour Commissioners to the Commissioners of Public Works in Ireland of a rateable proportion, to be computed in accordance with the foregoing instructions, of the sum of 85,000 *l.*, which the said Harbour Commissioners have applied to the said Commissioners of Public Works to advance to them, or of such lesser sum as the said Commissioners of Public Works may advance to the said Harbour Commissioners, pursuant to the said application, with interest on the amount advanced at the rate of 4 *l.* per cent. per annum, payable by annual instalments in 40 years; the said instalments, which are to cover principal and interest, are to be made payable yearly, half-yearly, or otherwise, as may be arranged between the said Commissioners of Public Works and the said Harbour Commissioners. And we hereby charge the said Barony of Corkaguiny with the payment of such annual, half-yearly, or other

other sums in any year as the Commissioners of Public Works may certify to be payable on account of this guarantee.

This Presentment is made in pursuance of the provisions of the Relief of Distress (Ireland) Amendment Act, 1880, and of the several Acts therein incorporated or referred to, and of the several Acts amending any of same.

Signed on behalf of the Justices and Associated Cesspayers,
(signed) *Ventry, Chairman.*

Dated 4th October 1881.

I certify the foregoing to be a true copy.

Secretary to the County Kerry Grand Jury.

APPENDIX C.

716—81.

FORM 2.

WHEREAS, by virtue of "The Relief of Distress (Ireland) Amendment Act, 1880," as amended by "The Irish Loans Act, 1880,"

The Commissioners of Public Works in Ireland, hereinafter called "Commissioners," with the sanction of the Lords Commissioners of Her Majesty's Treasury, for the purpose of the construction of a Pier and Harbour at Fenit, in the county of Kerry, and the necessary works in connection therewith, have agreed to Lend and Advance to Us, the Tralee and Fenit Pier and Harbour Commissioners appointed under and by virtue of the Pier and Harbours Orders Confirmation Act, 1880 (amongst others), an Order for the construction and maintenance of a Pier and Harbour at Fenit, in the county of Kerry, hereinafter called "Grantors," a sum of Ninety-five Thousand Pounds, by such Instalments as the said Commissioners may deem proper and expedient, upon having the repayment, with interest, secured as hereinafter mentioned :

It is therefore witnessed, that in pursuance of the said Agreement, and in consideration of the sum so agreed to be advanced as aforesaid, we the said Grantors do grant and assign unto the said Commissioners all that the Island known as the Great or large Scaphire Island, situate at the entrance to the Harbour of Tralee, in the barony of Traghacanny, and county of Kerry, together with the foreshore of said Island, and part of the townland of Oughterard Fenit, in the barony and county aforesaid, and the works authorised by the said Order, and all piers, quays, wharves, and other works, and all lands and property connected therewith. And also all that the Ship Canal, known as the Tralee Ship Canal, constructed under the powers of the Statutes 9th George IV., chapter 118, and 6th and 7th William IV., chapter 44, together with all houses, stores, cranes, chains, lock-gates, weir-bridges, winches, and every the appliances for working the canal, and the ground occupied thereby or used in connection therewith, and all tolls, rates, dues, and other moneys leviable by or payable to the said Grantors, and all other, if any, the lands, moneys, goods, securities, effects, and property of whatever kind belonging to the said Grantors, or to which they are in anywise entitled, or which might at any time hereafter belong to the said Grantors and which they have power to grant and assign for the purposes of this security. To hold the same respectively, and all our Estate, Right, Title, and Interest therein, unto the said Commissioners and their Successors, until the said sum of Ninety-five Thousand Pounds, or such portion or portions thereof as may be advanced, together with Interest, at the rate of Four Pounds for every One Hundred Pounds by the year, shall be repaid in manner following, that is to say, by payment to the said Commissioners by the said Grantors of an Annual Rent-charge of Five Pounds One Shilling for every One Hundred Pounds of such Loan which may be so advanced, and so in proportion for any lesser sum, for a term of forty years from the day of the date of each advance, such Annuity or yearly Rent-charge hereby granted to be payable by equal Half-yearly Payments, without any deduction, on every First day of May and First day of November during the said term of forty years, with such apportionment as may be necessary in respect of the first and last of such payments respectively, the first of such Half-yearly Payments to be made on whichever of said days shall ensue next after the day upon which the advance or advances shall have been made.

Given under our Corporate Seal this Sixth day of January,
One Thousand Eight Hundred and Eighty-two.

Henry Denson, Esq., Chairman.
Lawrence Redmond, Secretary.

Present when the Corporate Seal
of the Grantors was affixed. }

*D. De C. McGillicuddy, Tralee, Sessional Crown
Solicitor, County Kerry.*

*Richard Haggard, Solicitor for the Tralee and
Fenit Pier and Harbour Commissioners, Tralee.*



APPENDIX D.

CONTAINING Copies of Receipts given by the Commissioners of Public Works to the
Tralee and Fenit Pier and Harbour Commissioners.

No. 275.

Office of Public Works, Dublin,
2 May 1883.

RECEIVED from the Tralee and Fenit Pier and Harbour Commissioners the sum of two hundred and seventy-one pounds, eleven shillings, and ten-pence, being Instalment due 1st May 1883.

£. 271 11 s. 10 d.

(signed) *Fred. L. Wiber,*
for Accountant.

1321—2.

Office of Public Works, Dublin,
3 November 1883.

RECEIVED from the Tralee and Fenit Pier and Harbour Commissioners the sum of four hundred and ten pounds, fourteen shillings, and three-pence, being Instalment due 1st November 1883.

£. 410 14 s. 3 d.

(signed) *W. B. Seady,*
Accountant.

No. 415.

Office of Public Works, Dublin,
8 May 1884.

RECEIVED from the Tralee and Fenit Pier and Harbour Commissioners the sum of five hundred and ninety-six pounds, two shillings, and one penny, being Instalment due 1st May 1884.

£. 596 2 s. 1 d.

(signed) *Fred. L. Wiber,*
for Accountant.

No. 1505.

Office of Public Works, Dublin,
10 November 1884.

RECEIVED from the Tralee and Fenit Pier and Harbour Commissioners the sum of eight hundred and fifty-eight pounds, eight shillings, and eight-pence, being Instalment due 1st November 1884.

£. 858 8 s. 8 d.

(signed) *D. T. Jones,*
for Accountant.

No. 861.

Office of Public Works, Dublin,
27 May 1885.

RECEIVED from the Tralee and Fenit Pier and Harbour Commissioners the sum of one thousand and fifty-five pounds, fourteen shillings, and six-pence, being Instalment due 1st May 1885.

£. 1,055 14 s. 6 d.

(signed) *George Pirrie,*
Accountant.

CASE FOR THE JUDGES.—PRESENTMENT CASES.

Tuesday the 16th day of February 1886.

County of Kerry Presentments.—Summer Assizes, 1885.

Tralee and Fenit Pier and Harbour.

CASE reserved herein for the advice and opinion of their Lordships the Judges by the Right Honourable the Lord Chief Baron of the Exchequer in Ireland, being in List for Argument.

Mr. H. P. Jellett (with whom were Mr. J. Atkinson, *q.c.*, and Mr. J. F. V. Fitzgerald) of Counsel for the Commissioners of Public Works in Ireland, in support of the Presentment sought herein, the subject-matter of the case reserved.

Mr. W. M. Hickson, *q.c.*, and Mr. D. B. Sullivan, of Counsel for the Cesspayers affected by the Presentment sought, heard contra.

Mr. Atkinson heard in reply;

Whereupon their Lordships the Judges present being of opinion that the Presentment sought ought not to be made or fiatd,

It is thereupon ordered by the Lord Chief Baron that a Minute hereof be transmitted to the Clerk of the Crown and Peace of and for the County of Kerry, with the learned Chief Baron's directions that the Presentment sought herein be not made or fiatd.

And the Lord Chief Baron doth further Order that the said Clerk of the Crown and Peace do forthwith return into the Crown Office here the blank form of Presentment signed by the Foreman of the Grand Jury at the said Assizes under the Lord Chief Baron's directions in Order, and so that the said blank form be and remain cancelled.

I certify that the above is a true copy of the Memorandum and Order: entered on the hearing of this case reserved.

(signed) *John Fox Goodman,*
Master of the Crown Office.

20 July 1889.

INSTRUCTIONS for the Justices and the Associated Cesspayers at Extraordinary Presentment Sessions in the Baronies of Trughenackmy, Magonihy, Clannaurice, Corkaguiney, and Iraghticonnor, in the County of Kerry, issued by the Lord Lieutenant in pursuance of the powers vested in him by the 43 Vict. ch. 4, sect. 11, and 43 & 44 Vict. Sess. 2, ch. 14, sect. 14.

1. His Excellency the Lord Lieutenant has convened Extraordinary Presentment Sessions in the Baronies of

Trughenackmy,
Magonihy,
Clannaurice,
Corkaguiney,
and
Iraghticonnor,

in the County of Kerry, to decide upon an application which will be made to them by the Tralee and Fenit Pier and Harbour Commissioners (hereinafter called The Harbour Commissioners).

2. The Harbour Commissioners were incorporated by "The Tralee and Fenit Pier and Harbour Order, 1880," which was afterwards duly confirmed by "The Pier and Harbour Orders Confirmation Act, 1880," and by the said

Order the Harbour Commissioners were empowered to construct a Pier and other works at Fenit, and to borrow at interest such sums as might be required for the purposes of the Order, not exceeding in the whole 95,000 £.

3. The application which is about to be made to the Presentment Sessions by the Harbour Commissioners is, that the Sessions should charge the above-named Baronies by way of guarantee with the repayment of a loan of 95,000 £. (with interest at four per cent.), which the Harbour Commissioners, in pursuance of their borrowing power, have applied to the Commissioners of Public Works to make to them, and which the said Commissioners have agreed to make, provided a guarantee for its repayment with interest be given by the above-named Baronies, and provided the Harbour Commissioners can acquire the lands necessary for their undertaking. The proposed loan of 95,000 £, with the interest thereon, will be made repayable by equal instalments extending over forty years, from the times at which the several advances making up the said sum shall be made, the amount payable in each year after the full sum shall have been advanced being 4,797 £. 10s. The primary fund for the payment of these instalments will be the revenue of the Harbour Commissioners, and the deficiency each year will have to be made good (assuming the proposed guarantee is given) by the above-mentioned Baronies rateably contributing in proportion to the valuation for the time being of each of them. Their present valuation is as follows:—

	£.
Trughtaseekmy - - - - -	81,529
Magoshihy - - - - -	55,459
Clannaurice - - - - -	40,132
Corkaguiney - - - - -	25,262
Inaghicannor - - - - -	35,265
TOTAL - - - £.	238,007

4. The Statutes under which the present proceedings are proposed to be taken are "The Relief of Distress (Ireland) Amendment Act, 1880," sections 13, 14, and 15; "The Relief of Distress (Ireland) Act, 1880," sections 11, 12, 14, 15, and 16; and "The Irish Loans Act, 1880," 43 & 44 Vict. ch. 44. His Excellency refers the Justices and Associated Cesspayers to these enactments, and particularly to the fact that the making of the proposed Presentment is completely discretionary with the Presentment Sessions, and their decision cannot be reviewed by the Grand Jury nor traversed at the Assizes.

5. Upon the occasion of the Loan having been first applied for a committee was appointed by the Commissioners of Public Works to inquire as to the correctness of the estimate which had been made of the cost of the proposed works, and also of the probable receipts from the Harbour when completed; and the inquiry having been held a report was prepared by the Committee. The attention of the Sessions is specially directed to this report. For the purpose of enabling all persons interested to make themselves acquainted with its contents, printed copies of it have been supplied to the Secretary of the Grand Jury, and he has been directed to forward copies of it and of these instructions to the Justices and Associated Cesspayers of the Baronies. The report was laid before the Lords Commissioners of Her Majesty's Treasury, and having been considered by them they have desired the Sessions to be informed that they are not able to anticipate a charge of less than 2d. in the pound on the annual rateable value. The charge may be more, and should there be no surplus revenue in any particular year it would be 5d. in the pound. His Excellency suggests, for the consideration of the Presentment Sessions, that, inasmuch as the Commissioners will not, until the completion of the works, be in receipt of a revenue sufficient for the discharge of any considerable portion of the instalments payable to the Board of Works, it would be desirable that the Presentment Sessions should sanction some agreement between the Baronies and the promoters of the undertaking by which, until

until the completion of the works, the former should be indemnified by the latter against one moiety or some other part of the instalments to which the Baronies will be liable.

6. It was originally proposed, as will be seen from the report, that the Borough of Tralee (over and above its contribution as part of the Barony of Trughenackmy) should join in guaranteeing the loan. There is, however, no legal power enabling the Borough to undertake this responsibility, and the guarantee, therefore, will have to be given by the Baronies without the Borough being liable thereto any further than as part of the Barony of Trughenackmy.

7. The 95,000 *l.* (the advance of which is sought by the Harbour Commissioners) can be expended only on the proposed pier and other works and purposes expressly sanctioned by the Order incorporating the Harbour Commissioners. No portion of it can be expended on the present canal, or in payment of the balance of the canal debt due to the Public Works Loan Commissioners, or of the instalments of the present loan.

8. The Presentment Sessions in each barony shall, at their meeting, decide whether they will adopt or reject the proposed presentment. If they adopt it, their presentment is to be in the form set forth at foot of these instructions. If the sessions in any barony reject the presentment, the presentments made in the other baronies will be null and void.

FORM OF PRESENTMENT.

We, the Justices and Associated Cess-payers assembled at Extraordinary Presentment Sessions for the barony of _____ in the County of Kerry, hereby present—

That we hereby on behalf of the said barony of _____ guarantee the repayment by the Tralee and Fenit Pier and Harbour Commissioners to the Commissioners of Public Works in Ireland of a rateable proportion, to be computed in accordance with the foregoing instructions, of the sum of 95,000 *l.*, which the said Harbour Commissioners have applied in the said Commissioners of Public Works to advance to them, or of such lesser sum as the said Commissioners of Public Works may advance to the said Harbour Commissioners pursuant to the said application, with interest on the amount advanced at the rate of 4 *l.* per cent. per annum, payable by annual instalments in 40 years; the said instalments, which are to cover principal and interest, are to be made payable yearly, half-yearly, or otherwise, as may be arranged between the said Commissioners of Public Works and the said Harbour Commissioners. And we hereby charge the said barony of _____ with the payment of such annual, half-yearly, or other sums in any year as the Commissioners of Public Works may certify to be payable on account of this guarantee.

This presentment is made in pursuance of the provisions of the Relief of Distress (Ireland) Amendment Act, 1880, and of the several Acts therein incorporated or referred to, and of the several Acts amending any of same.

Signed on behalf of the Justices and Associated Cess-payers.

Chairman.

Dated _____

